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**MAR 09 2004**

**OFFICE OF PETITIONS**

In re Application of  
Daniel D. Auger, Mary J. Stewart, Gary S.  
Fenton, Steven G. Ingleson-Mace, David P.  
Thomas, and Frederic Turquier  
Application No. 10/609,171  
Filed: June 27, 2003  
Attorney Docket No. DEP754NP  
Title: KIT, GUIDE AND METHOD FOR  
LOCATING DISTAL FEMORAL  
RESECTION PLANE

DECISION ON PETITION

This is in response to the petition filed January 20, 2004 under 37 C.F.R. §1.47(a)<sup>1</sup> to accept the submitted declaration without the signature of joint inventor Turquier. The petition contains a certificate of mailing dated January 16, 2004.

The above-identified application was filed June 27, 2003, identifying Daniel D. Auger, Mary J. Stewart, Gary S. Fenton, Steven G. Ingleson-Mace, David P. Thomas, and Frederic Turquier as joint inventors. The application was deposited without an executed oath or declaration. On September 17, 2003, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that an executed oath or declaration and the surcharge associated with the late filing of an oath or declaration were required. This Notice set a two-month period for reply.

<sup>1</sup>A grantable petition under 37 C.F.R. §1.47(a) requires:

- (1) the petition fee of \$130;
- (2) a surcharge of either \$65 or \$130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
- (3) a statement of the last known address of the non-signing inventors;
- (4) proof that the non-signing inventor refuses to join in the application or cannot be found or reached after diligent effort;
- (5) a declaration which complies with 37 CFR §1.63.

On January 20, 2004, the instant petition was filed, along with a statement of facts, a letter, and a declaration which has been executed by each of the joint inventors save inventor Turquier. Accompanying the petition was a statement from a former co-worker of the non-signing inventor, which sets forth that a complete copy of the application was sent to the last known address of the non-signing inventor, and that he refused to join in the application. Also included was a two-month extension of time, to make timely this response.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a).

Therefore, the petition under 37 C.F.R. §1.47(a) is **GRANTED**. This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011.



Paul Shanoski  
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Office of Petitions  
United States Patent and Trademark Office